IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 1184 of 2006

BANWARI LAL
V/S
A.D.J.(FAST TRACK),PARBATSAR & ORS.

Mr. SL JAIN, for the appellant / petitioner

Mr. HR SONI, for the respondent

Date of Order : 7.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties, perused the impugned order.

The learned trial Court in the order dated 26.10.2005 has given cogent reasons for declining to accept the application of the plaintiff under Order 18 Rule 17, so also Order 7 Rule 14. It has been found that the plaintiff has contended that the documents could not be marked exhibit because on that day, the counsel was not available, while it has been found firstly that many of the documents were not even produced on record till on the date when the plaintiff's statements were recorded i.e. they did not exist on record till that date. Then it has also been found that the counsel of the plaintiff was very much available on that date as the affidavits had been filed on that very day. In my view, apart from this, there is yet another reason for declining the prayer that the

examination-in-chief of plaintiff was recorded by way of affidavit, which obviously must have been prepared by the advocate, and the plaintiff must have signed it after duly reading it, and the documents were to be marked exhibit in the affidavit itself, which were not supposed to be marked exhibit in cross-examination. Then so far as the application under Order 7 Rule 14 is concerned, in that regard, the learned trial Court has given cogent reasons. It is clear that the plaintiff got sufficient opportunities to lead evidence. Then after defendant's evidence was recorded, the plaintiff voluntarily closed his rebuttal evidence also and the case was going on for final arguments. In my view, at that stage, learned trial Court was perfectly right in declining the applications. That being the position, I do not find any error in the order Annex.5 also, whereby the learned trial Court declined to review the order Annex.3.

The writ petition thus has no force, and is dismissed summarily.

(N P GUPTA),J.

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